

1-1 By: Hughes S.B. No. 1382
 1-2 (In the Senate - Filed March 6, 2017; March 16, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 May 9, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; May 9, 2017, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15			X	
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1382 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to energy savings performance contracts.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Sections 44.901(a) and (f-1), Education Code,
 1-24 are amended to read as follows:
 1-25 (a) In this section, "energy savings performance contract"
 1-26 has the meaning assigned by Section 302.001, Local Government Code
 1-27 ~~[means a contract for energy or water conservation measures to~~
 1-28 ~~reduce energy or water consumption or operating costs of new or~~
 1-29 ~~existing school facilities in which the estimated savings in~~
 1-30 ~~utility costs resulting from the measures is guaranteed to offset~~
 1-31 ~~the cost of the measures over a specified period. The term includes~~
 1-32 ~~a contract for the installation or implementation of:~~
 1-33 ~~[(1) insulation of a building structure and systems~~
 1-34 ~~within the building;~~
 1-35 ~~[(2) storm windows or doors, caulking or~~
 1-36 ~~weatherstripping, multiglazed windows or doors, heat absorbing or~~
 1-37 ~~heat reflective glazed and coated window or door systems, or other~~
 1-38 ~~window or door system modifications that reduce energy consumption;~~
 1-39 ~~[(3) automatic energy control systems, including~~
 1-40 ~~computer software and technical data licenses;~~
 1-41 ~~[(4) heating, ventilating, or air-conditioning system~~
 1-42 ~~modifications or replacements that reduce energy or water~~
 1-43 ~~consumption;~~
 1-44 ~~[(5) lighting fixtures that increase energy~~
 1-45 ~~efficiency;~~
 1-46 ~~[(6) energy recovery systems;~~
 1-47 ~~[(7) electric systems improvements;~~
 1-48 ~~[(8) water-conserving fixtures, appliances, and~~
 1-49 ~~equipment or the substitution of non-water-using fixtures,~~
 1-50 ~~appliances, and equipment;~~
 1-51 ~~[(9) water-conserving landscape irrigation equipment;~~
 1-52 ~~[(10) landscaping measures that reduce watering~~
 1-53 ~~demands and capture and hold applied water and rainfall, including:~~
 1-54 ~~[(A) landscape contouring, including the use of~~
 1-55 ~~berms, swales, and terraces; and~~
 1-56 ~~[(B) the use of soil amendments that increase the~~
 1-57 ~~water-holding capacity of the soil, including compost;~~
 1-58 ~~[(11) rainwater harvesting equipment and equipment to~~
 1-59 ~~make use of water collected as part of a storm-water system~~
 1-60 ~~installed for water quality control;~~

2-1 ~~[(12) equipment for recycling or reuse of water~~
2-2 ~~originating on the premises or from other sources, including~~
2-3 ~~treated municipal effluent;~~
2-4 ~~[(13) equipment needed to capture water from~~
2-5 ~~nonconventional, alternate sources, including air conditioning~~
2-6 ~~condensate or graywater, for nonpotable uses;~~
2-7 ~~[(14) metering equipment needed to segregate water use~~
2-8 ~~in order to identify water conservation opportunities or verify~~
2-9 ~~water savings; or~~
2-10 ~~[(15) other energy or water conservation-related~~
2-11 ~~improvements or equipment, including improvements or equipment~~
2-12 ~~relating to renewable energy or nonconventional water sources or~~
2-13 ~~water reuse].~~
2-14 (f-1) Notwithstanding other law, the board may use any
2-15 available money~~[, other than money borrowed from this state,]~~ to
2-16 pay the provider of the energy or water conservation measures under
2-17 this section, and the board is not required to pay for such costs
2-18 solely out of the savings realized by the school district under an
2-19 energy savings performance contract. The board may contract with
2-20 the provider to perform work that is related to, connected with, or
2-21 otherwise ancillary to the measures identified in the scope of an
2-22 energy savings performance contract.
2-23 SECTION 2. Sections 51.927(a) and (g-1), Education Code,
2-24 are amended to read as follows:
2-25 (a) In this section, "energy savings performance contract"
2-26 has the meaning assigned by Section 302.001, Local Government Code
2-27 ~~[means a contract for energy or water conservation measures to~~
2-28 ~~reduce energy or water consumption or operating costs of new or~~
2-29 ~~existing institutional facilities in which the estimated savings in~~
2-30 ~~utility costs resulting from the measures is guaranteed to offset~~
2-31 ~~the cost of the measures over a specified period. The term includes~~
2-32 ~~a contract for the installation or implementation of:~~
2-33 ~~[(1) insulation of a building structure and systems~~
2-34 ~~within a building;~~
2-35 ~~[(2) storm windows or doors, caulking or weather~~
2-36 ~~stripping, multiglazed windows or doors, heat-absorbing or~~
2-37 ~~heat-reflective glazed and coated window or door systems, or other~~
2-38 ~~window or door system modifications that reduce energy consumption;~~
2-39 ~~[(3) automatic energy control systems, including~~
2-40 ~~computer software and technical data licenses;~~
2-41 ~~[(4) heating, ventilating, or air conditioning system~~
2-42 ~~modifications or replacements that reduce energy or water~~
2-43 ~~consumption;~~
2-44 ~~[(5) lighting fixtures that increase energy~~
2-45 ~~efficiency;~~
2-46 ~~[(6) energy recovery systems;~~
2-47 ~~[(7) electric systems improvements;~~
2-48 ~~[(8) water-conserving fixtures, appliances, and~~
2-49 ~~equipment or the substitution of non-water-using fixtures,~~
2-50 ~~appliances, and equipment;~~
2-51 ~~[(9) water-conserving landscape irrigation equipment;~~
2-52 ~~[(10) landscaping measures that reduce watering~~
2-53 ~~demands and capture and hold applied water and rainfall, including:~~
2-54 ~~[(A) landscape contouring, including the use of~~
2-55 ~~berms, swales, and terraces; and~~
2-56 ~~[(B) the use of soil amendments that increase the~~
2-57 ~~water-holding capacity of the soil, including compost;~~
2-58 ~~[(11) rainwater harvesting equipment and equipment to~~
2-59 ~~make use of water collected as part of a storm-water system~~
2-60 ~~installed for water quality control;~~
2-61 ~~[(12) equipment for recycling or reuse of water~~
2-62 ~~originating on the premises or from other sources, including~~
2-63 ~~treated municipal effluent;~~
2-64 ~~[(13) equipment needed to capture water from~~
2-65 ~~nonconventional, alternate sources, including air conditioning~~
2-66 ~~condensate or graywater, for nonpotable uses;~~
2-67 ~~[(14) metering equipment needed to segregate water use~~
2-68 ~~in order to identify water conservation opportunities or verify~~
2-69 ~~water savings; or~~

3-1 ~~[(15) other energy or water conservation-related~~
 3-2 ~~improvements or equipment, including improvements or equipment~~
 3-3 ~~related to renewable energy or nonconventional water sources or~~
 3-4 ~~water reuse].~~

3-5 (g-1) Notwithstanding other law, the board may use any
 3-6 available money~~[, other than money borrowed from this state,]~~ to
 3-7 pay the provider of the energy or water conservation measures under
 3-8 this section, and the board is not required to pay for such costs
 3-9 solely out of the savings realized by the institution of higher
 3-10 education under an energy savings performance contract. The board
 3-11 may contract with the provider to perform work that is related to,
 3-12 connected with, or otherwise ancillary to the measures identified
 3-13 in the scope of an energy savings performance contract.

3-14 SECTION 3. Sections 2166.406(a) and (f-1), Government Code,
 3-15 are amended to read as follows:

3-16 (a) In this section, "energy savings performance contract"
 3-17 has the meaning assigned by Section 302.001, Local Government Code
 3-18 ~~[means a contract for energy or water conservation measures to~~
 3-19 ~~reduce energy or water consumption or operating costs of new or~~
 3-20 ~~existing governmental facilities in which the estimated savings in~~
 3-21 ~~utility costs resulting from the measures is guaranteed to offset~~
 3-22 ~~the cost of the measures over a specified period. The term includes~~
 3-23 ~~a contract for the installation of:~~

3-24 ~~[(1) insulation of a building structure and systems~~
 3-25 ~~within the building;~~

3-26 ~~[(2) storm windows or doors, caulking or weather~~
 3-27 ~~stripping, multiglazed windows or doors, heat absorbing or heat~~
 3-28 ~~reflective glazed and coated window or door systems, or other~~
 3-29 ~~window or door system modifications that reduce energy consumption;~~

3-30 ~~[(3) automatic energy control systems, including~~
 3-31 ~~computer software and technical data licenses;~~

3-32 ~~[(4) heating, ventilating, or air-conditioning system~~
 3-33 ~~modifications or replacements that reduce energy or water~~
 3-34 ~~consumption;~~

3-35 ~~[(5) lighting fixtures that increase energy~~
 3-36 ~~efficiency;~~

3-37 ~~[(6) energy recovery systems;~~

3-38 ~~[(7) electric systems improvements;~~

3-39 ~~[(8) water-conserving fixtures, appliances, and~~
 3-40 ~~equipment or the substitution of non-water-using fixtures,~~
 3-41 ~~appliances, and equipment;~~

3-42 ~~[(9) water-conserving landscape irrigation equipment;~~

3-43 ~~[(10) landscaping measures that reduce watering~~
 3-44 ~~demands and capture and hold applied water and rainfall, including:~~

3-45 ~~[(A) landscape contouring, including the use of~~
 3-46 ~~berms, swales, and terraces; and~~

3-47 ~~[(B) the use of soil amendments that increase the~~
 3-48 ~~water-holding capacity of the soil, including compost;~~

3-49 ~~[(11) rainwater harvesting equipment and equipment to~~
 3-50 ~~make use of water collected as part of a storm-water system~~
 3-51 ~~installed for water quality control;~~

3-52 ~~[(12) equipment for recycling or reuse of water~~
 3-53 ~~originating on the premises or from other sources, including~~
 3-54 ~~treated municipal effluent;~~

3-55 ~~[(13) equipment needed to capture water from~~
 3-56 ~~nonconventional, alternate sources, including air conditioning~~
 3-57 ~~condensate or graywater, for nonpotable uses;~~

3-58 ~~[(14) metering equipment needed to segregate water use~~
 3-59 ~~in order to identify water conservation opportunities or verify~~
 3-60 ~~water savings; or~~

3-61 ~~[(15) other energy or water conservation-related~~
 3-62 ~~improvements or equipment including improvements or equipment~~
 3-63 ~~related to renewable energy or nonconventional water sources or~~
 3-64 ~~water reuse].~~

3-65 (f-1) Notwithstanding other law, the state agency may use
 3-66 any available money~~[, other than money borrowed from this state,]~~
 3-67 to pay the provider of the energy or water conservation measures
 3-68 under this section, and the state agency is not required to pay for
 3-69 such costs solely out of the savings realized by the state agency

4-1 under an energy savings performance contract. The state agency may
4-2 contract with the provider to perform work that is related to,
4-3 connected with, or otherwise ancillary to the measures identified
4-4 in the scope of an energy savings performance contract.

4-5 SECTION 4. Sections 302.001(1), (3), and (4), Local
4-6 Government Code, are amended to read as follows:

4-7 (1) "Baseline" means a calculation or set of
4-8 calculations in an energy savings performance contract that:

4-9 (A) may be based on:
4-10 (i) historical costs, revenues, accuracy,
4-11 or related components; or

4-12 (ii) avoided anticipated costs; and
4-13 (B) used for determining:

4-14 (i) [~~A~~] the costs for energy or water
4-15 usage [~~by a local government~~] and related net operating costs;

4-16 (ii) [~~B~~] the billable revenues from
4-17 providing energy, water, or other utilities to users; or

4-18 (iii) [~~C~~] the efficiency or accuracy of
4-19 metering or related equipment, systems, or processes or procedures.

4-20 (3) "Energy savings" means an estimated reduction in
4-21 net fuel costs, energy costs, water costs, stormwater fees, or
4-22 other utility costs, or related net operating costs, including
4-23 costs for anticipated equipment replacement and repair, from or as
4-24 compared to an established baseline of those costs. The term does
4-25 not include an estimated reduction due to a decrease in energy rates
4-26 that is not derived from increased conservation or reduced usage.

4-27 (4) "Energy savings performance contract" means a
4-28 contract with [~~between a local government and~~] a provider for
4-29 energy or water conservation or usage measures in which the
4-30 estimated energy savings, utility cost savings, increase in
4-31 billable revenues, or increase in meter accuracy resulting from the
4-32 measures is subject to guarantee to offset the cost of the energy or
4-33 water conservation or usage measures over a specified period. The
4-34 term includes a contract related to the pilot program described by
4-35 Subdivision (9-a) and a contract for the installation or
4-36 implementation of the following in new or existing facilities,
4-37 including all causally connected work:

4-38 (A) insulation of a building structure and
4-39 systems within the building;

4-40 (B) storm windows or doors, caulking or weather
4-41 stripping, multiglazed windows or doors, heat-absorbing or
4-42 heat-reflective glazed and coated window or door systems, or other
4-43 window or door system modifications that reduce energy consumption;

4-44 (C) automatic energy control systems, including
4-45 computer software and technical data licenses;

4-46 (D) heating, ventilating, or air-conditioning
4-47 system modifications or replacements that reduce energy or water
4-48 consumption;

4-49 (E) lighting fixtures that increase energy
4-50 efficiency;

4-51 (F) energy recovery systems;

4-52 (G) electric systems improvements;

4-53 (H) water-conserving fixtures, appliances, and
4-54 equipment or the substitution of non-water-using fixtures,
4-55 appliances, and equipment;

4-56 (I) water-conserving landscape irrigation
4-57 equipment;

4-58 (J) landscaping measures that reduce watering
4-59 demands and capture and hold applied water and rainfall, including:

4-60 (i) landscape contouring, including the use
4-61 of berms, swales, and terraces; and

4-62 (ii) the use of soil amendments that
4-63 increase the water-holding capacity of the soil, including compost;

4-64 (K) rainwater harvesting equipment and equipment
4-65 to make use of water collected as part of a storm-water system
4-66 installed for water quality control;

4-67 (L) equipment for recycling or reuse of water
4-68 originating on the premises or from other sources, including
4-69 treated municipal effluent;

5-1 (M) equipment needed to capture water from
5-2 nonconventional, alternate sources, including air-conditioning
5-3 condensate or graywater, for nonpotable uses;

5-4 (N) metering or related equipment or systems that
5-5 improve the accuracy of billable-revenue-generation systems;

5-6 (O) alternative fuel programs resulting in
5-7 energy cost savings and reduced emissions for local government
5-8 vehicles, including fleet vehicles;

5-9 (P) programs resulting in utility cost savings;
5-10 or

5-11 (Q) other energy or water conservation-related
5-12 improvements or equipment, including improvements or equipment
5-13 relating to renewable energy or nonconventional water sources or
5-14 water reuse.

5-15 SECTION 5. Section 302.004(a-1), Local Government Code, is
5-16 amended to read as follows:

5-17 (a-1) Notwithstanding other law, the governing body of a
5-18 local government may use any available money[~~, other than money~~
5-19 ~~borrowed from this state,~~] to pay the provider of the energy or
5-20 water conservation measures under this section, and the governing
5-21 body is not required to pay for such costs solely out of the savings
5-22 realized by the local government under an energy savings
5-23 performance contract. The governing body may contract with the
5-24 provider to perform work that is related to, connected with, or
5-25 otherwise ancillary to the measures identified in the scope of an
5-26 energy savings performance contract.

5-27 SECTION 6. This Act takes effect immediately if it receives
5-28 a vote of two-thirds of all the members elected to each house, as
5-29 provided by Section 39, Article III, Texas Constitution. If this
5-30 Act does not receive the vote necessary for immediate effect, this
5-31 Act takes effect September 1, 2017.

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